



FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FEB - 5 2014

J. David Cox, Sr., Treasurer
Kevin LaDana, PAC Compliance Specialist
American Federation of Government Employees PAC
80 F Street, NW
Washington, DC 20001

Re: MUR 6745
Jennifer T. Scott

Dear Messrs Cox and LaDana:

This is in reference to the complaint you filed with the Federal Election Commission on July 12, 2013, concerning Jennifer T. Scott. After considering the circumstances of this matter, the Commission determined to dismiss this matter and closed the file on January 28, 2014. The Factual and Legal Analysis, which more fully explains the basis for the Commission's decision is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

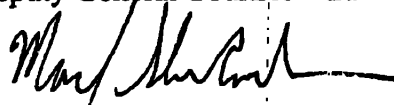
The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lisa Stevenson
Deputy General Counsel – Law



BY: Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jennifer T. Scott MUR: 6745

I. INTRODUCTION

The American Federation of Government Employees Political Action Committee ("AFGE-PAC") alleged that union member Jennifer T. Scott embezzled \$1,507.28 from its bank account using two fraudulent checks. AFGE-PAC disclosed the embezzlement to the Commission shortly after discovering it. Scott claims that she is the victim of identity theft and did not embezzle the funds. Based on the available information, the Commission dismisses the allegations that Scott violated 2 U.S.C. §§ 432(b)(3) and 439a(b) and 11 C.F.R. §§ 102.15 and 113.1(g)(1), and closes the file in this matter.

II. FACTUAL BACKGROUND AND ANALYSIS

AFGE-PAC is the separate segregate fund of the American Federation of Government Employees ("AFGE") and a political committee that reports to the Commission. Jennifer T. Scott is a member of the AFGE and a contributor to AFGE-PAC. Compl. at 2 (July 12, 2013); Resp., Attach. at 2 (Aug. 20, 2013).

AFGE-PAC alleges that two checks were fraudulently issued on its bank account — check number 2742 in the amount of \$645.80 on March 13, 2013 and check number 2741 in the amount of \$861.48 on March 19, 2013. Compl. at 1. The checks appear to have been issued in the form of personal checks, with the name and address of "Theresa Scott" and AFGE-PAC's

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1 Wells Fargo Bank account number and routing number imprinted on them.¹ Compl., Attach. 3.

2 Both checks were made out to Target and cleared the bank on April 5, 2013. Compl. at 1.

3 AFGE-PAC states that it reviewed its database and discovered that the address on the
4 checks matched that of AFGE union member Jennifer T. Scott. Compl. at 1-2. AFGE-PAC
5 subsequently filed a claim with Wells Fargo Bank, in which it stated that Scott was given AFGE-
6 PAC's Wells Fargo Bank account and routing number to facilitate her payroll deduction
7 allotment and that Scott was not authorized to draw on the account. Compl., Attach. 1. AFGE-
8 PAC also filed a police report on June 19, 2013. See Compl., Attach. 2.

9 AFGE-PAC disclosed the embezzlement to the Commission on May 17, 2013 in a
10 Miscellaneous Report and in its Monthly Report. See FEC Form 99, Miscellaneous Report (May
11 17, 2013); FEC Form 3X, May Monthly Report of Receipts and Disbursements at 28 (May 20,
12 2013) ("Monthly Report"). AFGE-PAC itemized the two fraudulent checks as unauthorized
13 disbursements and a \$645.80 refund from Wells Fargo Bank as a receipt in the Monthly Report.²

14 Jennifer T. Scott denies writing or cashing the checks and asserts that she is a victim of
15 identity theft. Resp. at 1. Scott, a Georgia resident, states that her full name is Jennifer Theresa
16 Scott, but that she has never used or signed her name as Theresa Scott. *Id.* She claims that the
17 signatures on the checks are not hers and that she has never had a personal account or personal

¹ AFGE-PAC alleges that it uncovered the fraud on May 2, 2013 while its FEC Compliance Specialist was doing routine bank reconciliation and noticed that checks were out of sequence. Compl. at 1. AFGE-PAC notified Wells Fargo Bank of the discrepancy, and the bank refunded the \$645.80 amount from check number 2742 because it could not sufficiently decipher from the blurred information whether the check was erroneous or fraudulent. *Id.* Based on the legible information on check number 2741, AFGE-PAC filed a formal claim of check fraud with Wells Fargo Bank the following day, May 3, 2013. *Id.*, Attach. 1.

² The transactions were disclosed as disbursements to Wachovia Bank with a note that they were unauthorized transactions made out to Target. See Monthly Report at 43. Wachovia Bank was acquired by Wells Fargo Bank. See <https://www.wellsfargo.com/about/corporate/wachovia>. AFGE-PAC reported receiving a refund from Wachovia Bank only for the \$645.80 amount; no explanation is given as to why the \$861.48 from check number 2741 was not refunded.

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1 checks with Wells Fargo Bank in Georgia. *Id.* Scott asserts that she lost her identification in
2 December 2012 and learned that someone was fraudulently using her identification to charge
3 merchandise at Target. *Id.*; Resp., Attach. Scott asserts that she filed an identity theft report
4 with Rockdale County Police Department, and that after investigating the fraudulent charges,
5 Target declined to hold her responsible for them. Resp. at 1. Scott further asserts that she filed
6 an identity theft complaint with the Federal Trade Commission.³ *Id.*

7 Scott claims that she first learned of the fraud on May 17, 2013 when a Washington
8 Times reporter contacted her about the allegations. Resp. at 1, Attach. Scott states that she
9 promptly contacted AFGE officials to explain what happened, but that her phone and e-mail
10 correspondence were to no avail. *Id.* E-mails attached to her Response indicate that Scott
11 described her account of the fraud to AFGE officials in May 2013, well before the Complaint
12 was filed. Resp., Attach. Scott surmises that an AFGE-PAC employee may be the actual culprit
13 and expressed concern about AFGE-PAC publicly accusing her without a thorough investigation
14 or consulting her. Scott offered to fully cooperate with a Commission investigation and
15 volunteered to provide any additional information or documentation that the Commission may
16 need. *Id.*

17
18 Although there is no dispute that funds were embezzled from AFGE-PAC's bank account
19 and that Scott's name was used to perpetrate the embezzlement, the parties in this matter dispute
20 whether Scott is the person responsible. In addition, this appears to have been an isolated
21 incident involving only two fraudulent checks totaling \$1,507.28. In light of this dispute and the

³ Scott inadvertently identifies the Federal Election Commission as the recipient of her identity theft complaint. See Resp. at 1.

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1 low dollar amount at issue, the Commission exercises its prosecutorial discretion and dismisses
2 this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).

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